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D.C.B.
Attorney's Docket No.: 08935-218001 / M-4926

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : William McHugh, et al. Art Unit : 1745
Serial No. : 09/692,869 Examiner : Angela Martin
Filed : October 20, 2000
Title : BATTERY AND METHOD OF MAKING A BATTERY

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

AMENDMENT IN REPLY TO ACTION OF JULY 9, 2004

Please amend the above-identified application as follows:

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

September 14, 2004
Date of Deposit

Diane C. Brown
Signature

Diane C. Brown
Typed or Printed Name of Person Signing Certificate

Claim Rejections – 35 U.S.C. § 103

The Examiner has rejected claims 1-5, 7-13, 15, 18, and 21-44 under 35 U.S.C. § 103(a) as unpatentable over Hull in view of U.S. Patent No. 5,716,726 ("Cheiky"). However, at the time the claimed invention was made, both the claimed invention and the subject matter of Hull were owned by the same company or subject to an obligation of assignment to the same company (the Gillette Company). Thus, under 35 U.S.C. § 103(c), Hull is disqualified as § 102(e) / § 103(a) prior art against the claims of the subject application. Applicants accordingly request that the rejection of claims 1-5, 7-13, 15, 18, and 21-44 be withdrawn.

Information Disclosure Statement

Applicants filed an Information Disclosure Statement for the subject application in the U.S. Patent and Trademark Office on June 8, 2004, but have not yet received a copy of the initialed 1449 form from the Examiner. Applicants have enclosed a copy of the 1449 form with this Reply, and request that the Examiner provide confirmation that the cited references have been reviewed.

Applicants believe that the claims are in condition for allowance, which action is requested. Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: SEPTEMBER 14, 2004

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